

Senate File 2215

AN ACT

RELATING TO THE USE OF GENETIC INFORMATION AND SAMPLES FOR
GENETIC TESTING AND PROVIDING FOR CIVIL AND ADMINISTRATIVE
ENFORCEMENT AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 507B.4, Code 2009, is amended by adding
the following new subsection:

NEW SUBSECTION. 7A. *Release or use of genetic
information.* Failure of a person to comply with section 729.6,
subsection 2B.

Sec. 2. Section 729.6, subsection 1, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. *Ob.* "*Genetic information*" means the same as defined in 29 U.S.C. § 1191b(d)(6).

Sec. 3. Section 729.6, subsection 1, paragraph c, Code 2009, is amended by striking the paragraph and inserting in lieu thereof the following:

c. "*Genetic testing*" means the same as genetic test as defined in 29 U.S.C. § 1191b(d)(7).

Sec. 4. Section 729.6, subsection 1, Code 2009, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *Od.* "*Health insurance*" means a contract, policy, or plan providing for health insurance coverage as defined in section 513B.2.

NEW PARAGRAPH. *Ood.* "*Health insurer*" means a carrier, as defined in section 513B.2.

NEW PARAGRAPH. *Of.* "*Third-party administrator*" means the same as defined in section 510.11.

Sec. 5. Section 729.6, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. *a.* A person shall not obtain genetic information or samples for genetic testing from an individual without first obtaining informed and written consent from the individual or the individual's authorized representative.

b. A person shall not perform genetic testing of an individual or collect, retain, transmit, or use genetic information without the informed and written consent of the individual or the individual's authorized representative.

c. The following exceptions apply to the prohibitions in paragraphs "*a*" and "*b*":

(1) To the extent that genetic information or the results of genetic testing may be collected, retained, transmitted, or used without the individual's written and informed consent pursuant to federal or other state law.

(2) To identify an individual in the course of a criminal investigation by a law enforcement agency.

(3) To identify deceased individuals.

(4) To establish parental identity.

(5) To screen newborns.

(6) For the purposes of medical or scientific research and education and for the use of medical repositories and registries so long as the information does not contain personally identifiable information of an individual.

NEW SUBSECTION. 2B. *a.* (1) With respect to health insurance, a third-party administrator or health insurer shall not release genetic information pertaining to an individual without prior written authorization of the individual. Written authorization shall be required for each disclosure and shall include the person to whom the disclosure is being made.

(2) The following exceptions apply to the requirement in subparagraph (1):

(a) Individuals participating in research settings, including individuals governed by the federal policy for the protection of human research subjects.

(b) Tests conducted purely for research, tests for somatic as opposed to heritable mutations, and testing for forensic purposes.

(c) Newborn screening.

(d) Paternity testing.

(e) Criminal investigations.

b. (1) With respect to health insurance, a health insurer shall not discriminate against an individual or a member of the individual's family on the basis of genetic information or genetic testing.

(2) This section shall not require a health insurer to provide particular benefits other than those provided under the terms of the health insurer's plan or coverage. With respect to health insurance, a health insurer shall not consider a genetic propensity, susceptibility, or carrier status as a preexisting condition for the purpose of limiting or excluding benefits, establishing rates, or providing coverage.

(3) With respect to health insurance, a health insurer shall not use genetic information or genetic testing for underwriting health insurance in the individual and group markets.

c. The commissioner of insurance shall adopt rules as necessary for the administration of this subsection.

d. A violation of this subsection is an unfair insurance trade practice under section 507B.4.

Sec. 6. Section 729.6, subsection 6, Code 2009, is amended to read as follows:

6. This Subsections 2, 2A, 3, 4, and 5 of this section may be enforced through a civil action.

a. A person who violates subsection 2, 2A, 3, 4, or 5 of this section or who aids in the violation of subsection 2, 2A, 3, 4, or 5 of this section is liable to an aggrieved employee, labor organization member, or licensee, or aggrieved

prospective employee, member, or licensee, for affirmative relief including reinstatement or hiring, with or without back pay, membership, licensing, or any other equitable relief as the court deems appropriate including attorney fees and court costs.

b. If a person commits, is committing, or proposes to commit, an act in violation of subsection 2, 2A, 3, 4, or 5 of [this section](#), an injunction may be granted through an action in district court to prohibit the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee, labor organization member, or licensee, or aggrieved prospective employee, member, or licensee, the county attorney, or the attorney general.

c. A person who in good faith brings an action under [this subsection](#) alleging that an employer, employment agency, labor organization, or licensing agency has ~~required or requested a genetic test in violation of~~ violated subsection 2, 2A, 3, 4, or 5 of this section shall establish that sufficient evidence exists upon which a reasonable person could find that a violation has occurred. Upon proof that sufficient evidence exists upon which a finding could be made that a violation has occurred as required under this paragraph, the employer, employment agency, labor organization, or licensing agency has the burden of proving that the requirements of [this section](#) were met.

JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2215, Eighty-third General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2010

CHESTER J. CULVER
Governor